

CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION

Article 1-1. General

1-101. Abbreviations. The following abbreviations shall apply to Title 24, California Code of Regulations:

AGR	Department of Food and Agriculture
BOC	Board of Corrections
BSC	Building Standards Commission
CA	Department of Consumer Affairs
CAC	California Administrative Code
CBC	California Building Code
CEC	California Electrical Code
CEC	California Energy Commission
CMC	California Mechanical Code
CPC	California Plumbing Code
COMMISSION	The California Building Standards Commission
DHS	Department of Health Services
DSA/SS	Division of the State Architect—Structural Safety Section
DSA/AC	Division of the State Architect—Access Compliance
DOE	Department of Education
DOT	Department of Transportation
ENFORCING AGENCY	The designated agency, board, commission, department, division, office, or individual, responsible for the enforcing of building standards.
HCD	Housing and Community Development

NEC®	National Electrical Code®
NFPA	National Fire Protection Association
OHP	Office of Historical Preservation
OSA/SSS	Office of the State Architect—Structural Safety Section
OSHDP	Office of Statewide Health Planning & Development
PUBLIC UTILITY	All entity which is regulated by the California Public Utilities Commission (PUC); or which would otherwise be regulated by the PUC but is exempted by municipal charter.
SBR	State Building Regulations
SECC	State Elevator Construction Code
SFM	Office of the State Fire Marshal
SHB	State Historical Board
SRSC	State Reference Standard Code
UBC	Uniform Building Code
UBC STDS	Uniform Building Code Standards
UFC	Uniform Fire Code
UHC	Uniform Housing Code
UMC	Uniform Mechanical Code
UPC	Uniform Plumbing Code
YA	Department of Youth Authority
Authority: Government Code Section 11000, and Health & Safety Code Section 18931 (f).	
Reference: Government Code Section 11000, and Health & Safety Code Section 18931 (d).	

Article 1-2. Duties and Responsibilities of the Building Standards Commission and the Executive Director

1-201.

(a) The Commission may hear argument(s), based upon the record of the Proceedings of the Adopting Agency.

(b) **Duties and Responsibilities of the Executive Director.** The Executive Director shall be the Chief Executive of the State Building Standards Commission, and shall be the primary individual responsible for implementing the will of the Commission, and shall have the authority to:

1. Recommend to the Commission, policies under which the office of the Commission will operate.
2. Interpret and implement the policies of the Commission.
3. Provide the administrative direction for the day-to-day work of the Commission.
4. Manage the technical and support staff of the Commission.
5. Represent the Commission to the Legislature.

6. Review and approve or disapprove agencies' public notices of hearings for proposed building standards per Sections 11346.4 and 11346.5 of the government code.

7. Ensure that Agencies comply with Section 18930 of the Health & Safety Code and Sections 11342 through 11446 (as required) of the government code, when adopting building standards, prior to submission to the Commission.

8. Negotiate and execute contractual agreements necessary to carry out the mission of the Commission.

9. Manage the Commission's appeals process.

10. Represent the Commission to all levels of state and local government, and with the private sector.

11. Perform other duties as required by the Commission and state statute(s).

Authority: Health & Safety Code Section 18931.

Reference: Health & Safety Code Sections 18925 and 18931.

Article 1-3. Public Notices and Hearing Dates**1-301.**

(a) **Public Notices.** Agencies, proposing to adopt building standards shall prepare a public notice which shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Six copies of the public notices for proposed building standards shall be forwarded to the Building Standards Commission for review and approval. A Building Standards Face Sheet (BSC-1) with original signature shall be submitted with the notices.

(c) Upon approval of the notice of hearing for building standards the Executive Director will forward the notice, within five working days, to the Office of Administrative Law for the sole purpose of publication in the California Administrative

Notice Register, and return an approved copy to the submitting agency. If a notice is found to be incomplete or incorrect by Commission staff, the Executive Director shall return it to the submitting agency within five working days with comments.

(d) Any public notice not acted upon within five working days shall be automatically approved and published.

Authority: Health & Safety Code Sections 18931 and 18935.

Reference: Health & Safety Code Sections 18931 and 18935.

1-302. Hearing Dates. Agencies planning to conduct hearings relative to building standards shall, prior to giving public notice, acquire the written approval of the Commission as to the time and place of the hearing(s).

Authority: Health & Safety Code Sections 18931 and 18935.

Reference: Health & Safety Code Sections 18931 and 18935.

Article 1-4. Submission of Nonemergency and Emergency Proposed Building Standards to the Commission**1-401.**

(a) After hearing or close of comment period by the adopting agency, all building standards shall be submitted as proposed building standards to the Commission for approval, in a format as prescribed by the Commission. Each proposed building standards package shall include:

1. Building Standards Face Sheet (BSC-1) with the original signature of a person authorized to certify documents.

2. Copies of the Public Notice, Informative Digest, Initial Statement of Reasons, and proposed standards.

3. Finding of Emergency Statement (submitted only with Emergency Regulations).

4. Copies of Department of Finance Fiscal Impact Statement (Std. 399) together with fiscal analysis prepared by the submitting Agency.

5. Copies of the written transcript or recorded minutes of the public hearing.

6. Copies of exhibits submitted at the public hearing.

7. Copies of correspondence received during public comment period.

8. Copies of the Updated Informative Digest and Final Statement of Reasons.

9. Copies of the proposed standards with any post hearing changes indicated, and a memo attesting to the 15-day public availability period.

10. Agencies shall certify when the public comment period was closed, and that the submitted rulemaking is complete.

11. An analysis which shall justify the approval of the building standard (s) in terms of the criteria as set forth in the State Building Standards Law, Part 2.5, Division 13, Section 18930, et seq., of the Health and Safety Code.

12. Any referenced documentation relevant to the hearing as determined by the Executive Director of the Building Standards Commission.

13. The number of copies of the proposed building standards packages to be forwarded to the Commission shall be determined by the Executive Director of the Building Standards Commission.

14. All proposed building standards packages shall be indexed.

15. If other than the Agency Director/Chief signs a Face Sheet (BSC-1), a delegation order shall be attached to the Face Sheet.

16. If the building standards were filed as an emergency, a certification that the requirements of Government Code Section 11346.1 have been complied with.

(b) The proposed building standards shall be submitted in the strikeout/underline format. If the proposed building standards amend existing building standards, all deletions must be shown in strikeout type and all additions, including punctuation, must be underlined. The provisions of this section may be waived by the Executive Director through written notification to the adopting agency.

Authority: Health & Safety Code Section 18931(f).

Reference: Health & Safety Code Section 18931 (f).

1-402.

(a) **Emergency Regulations.** Emergency building standards shall not be effective until approved by the Building Standards Commission and filed with the Secretary of State.

(b) Emergency building standard(s) packages submitted to the Commission prior to public hearing shall include:

1. An original signed Face Sheet (BSC-1)

2. The Finding of Emergency.

3. An analysis which shall justify the approval of the building standard(s) in terms of the criteria as set forth in the State Building Standards Law, Part 2.5, Division 13, Section 18930, et seq., of the Health and Safety Code.

4. The proposed emergency building standards.

5. A delegation order if the Face Sheet (BSC-1) is signed by other than the Agency Director/Chief.

6. Any supporting documentation as determined by the Executive Director.

(c) The number of copies of proposed emergency building standards packages will be determined by the Executive Director.

(d) Agencies adopting emergency building standards following an Agency public hearing shall submit a rulemaking file as prescribed in Section 401 (a).

(e) Following the filing with the Secretary of State, the Commission shall notify the affected Agency in writing of the filing date of the building standards.

(f) The Commission shall forward the required number of copies of the filing order to the Office of Administrative Law for the sole purpose of publication in the California Administrative Notice Register.

Authority: Government Code Sections 11346.1 and 11346.5 and Health & Safety Code Section 18937.

Reference: Government Code Section 11346.1 and 11346.5 and Health & Safety Code Sections 18913 and 18937.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-402, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

Article 1-5. Public Participation

1-501. Every state agency with authority to propose or adopt building standards shall adopt regulations to ensure public participation in the development of building standards by July 1, 1995. State agencies' regulations shall establish methods to:

(a) Identify all interested groups or persons affected by agency building standards.

(b) Notify all interested groups and persons that building standards are to be developed, and maintain a listing of such groups or persons, should the Commission request it.

(c) Make available draft proposals to interested groups or persons expressing interest.

(d) Establish a procedure to provide interested groups or persons the opportunity to advise the adopting agency of the impact of the proposed standards. The adopting agency shall submit to the Commission their regulations to provide public participation prior to public hearing.

Authority: Health & Safety Code Section 18934.

Reference: Health & Safety Code Section 18934.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-501, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

Article 1-6. Appeals Procedure

1-601. Scope of Appeals. Appeals to the Commission and the matters which can be appealed are described in Health and Safety Code Section 18945.

Authority: Health & Safety Code Sections 18931, 18945, 18946 and 18949.

Reference: Health & Safety Code Sections 18931, 18945, 18946 and 18949.

HISTORY:

1. (BSC 1/89) Regular order by the California Building Standards Commission to amend Section 1-601, Part 1, Title 24, California Code of Regulations. Filed with the Secretary of State April 1990; effective April 17, 1990. Approved as a regular order by the California Building Standards Commission on April 16, 1990.

1-602. Filing of Appeals.

(a) An appeal may be filed by any person, including a state or local agency. Affected individuals, local and/or state agencies may act as appellants and may file appeals relating to conflict, duplication, or overlap of any current state code, or any other matter of statewide significance.

(b) The appeal shall be in writing and shall specifically set forth:

1. The specific regulation, rules, interpretation, or decision of any state agency respecting the administration of any building standard being appealed.
2. The dates of any act, interpretation, or decision of any state agency related to the complaint.
3. The nature of any act, interpretation, or decision of any state agency related to the complaint.
4. The reasons for the appeal.
5. Documentation of the official action of the applicable state agency with respect to the agency's final determination on the issue.
6. Identification of witnesses, experts and other representatives of the appellant.

(c) The appeal or complaint shall be filed with the Executive Director at: CALIFORNIA BUILDING STANDARDS COMMISSION, 1130 K Street, Suite 101, Sacramento, California 95814.

(d) A nonrefundable fee of \$450.00 shall be submitted with the initial request for appeal. In addition, any and all costs for an administrative law judge or costs related to a hearing before the appeals subcommittee will be the responsibility of the appellants.

(e) **Appeals by Affected Individuals and Local Jurisdictions Jointly.** When the enforcement of a state building standard is the responsibility of a local jurisdictional authority, the Commission will hear an appeal only with the concurrence of both the affected individual and the responsible local jurisdictional authority.

(f) **Appeals Procedures of Other State Agencies.** Commission policy requires that an appellant obtain a final determination from the state agency in question relating to the issue under appeal before the Commission will hear the appeal. Only where there exists an apparent conflict, duplication or overlap in other available state appeals procedures or within the regulations or code will the appeal be heard without requiring that a final determination be obtained from the state agency.

(g) **Statute of Limitations.** Appeals will be accepted by the Commission only within:

1. Six months of when the act, interpretation, decision, or practice complained of occurred, or
2. As determined by the Commission if special circumstances are found to exist.

EXCEPTION: Appeals regarding any act, interpretation, decision or practice of any State adopting or enforcing agency prior to the adoption of this article will be accepted by the Commission if submitted within the first year following the effective date of this article

Authority: Health & Safety Code Sections 18931 and 18945.

Reference: Health & Safety Code Sections 18931 and 18945.

1-603. Receipt and Processing Appeals.

(a) Receipt of any appeal shall be acknowledged in writing by the Executive Director within 30 days of receipt advising the appellant and the state agency of the acceptance or rejection of the appeal as filed. The reply shall also set forth the planned action of the Commission in response to the application together with reasons for the proposed actions.

(b) If the Executive Director determines that additional information is needed in order to decide the matter, the Executive Director may request such additional information and defer action on the matter until such additional information is received. If the Executive Director requests additional information, the appellant shall have 30 days from the date of the Executive Director's request within which to submit the information. If the requested information is not received within 30 days, the Executive Director may treat the appeal as having been abandoned or may, upon written notice to the appellant and the state agency, process the appeal on such information as is available. Upon written request the Executive Director may, for good cause, extend the 30-day period by one additional 30-day period.

(c) The Executive Director and the Chair of the three-member Appeals Committee, appointed by the Chair of the Commission, shall, acting together, recommend to the Commission whether the appeal should be heard by the Appeals Committee or the full Commission. Suggested schedules for such hearings shall also be submitted. The recommendations shall be contained in the consent calendar of the next Commission meeting. The Executive Director shall advise the appellant and the state agency in writing within 15 days of the Commission's determination and the procedures and schedules to be followed for the hearing.

Authority: Health & Safety Code Section 18945.

Reference: Health & Safety Code Sections 18931 and 18946.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-603, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-604. Hearings.

(a) If it is determined by the Commission that the appeal shall be heard by the Appeals Committee, the following provisions shall apply:

1. Time and place of hearing as determined by the Commission shall be noticed to the appellant and the state agency within 15 days of its determination; date of said hearing shall be within 60 days of date of said notice.

2. The Executive Director shall publish the date of hearing to interested parties and may invite experts or other witnesses as necessary for the hearing.

3. The Appeals Committee shall not be bound by the rules of evidence or procedure applicable in the courts. Appellant, appellant's witnesses, and any other interested persons may present testimony, argument, and/or documentary material concerning the matter(s) under consideration.

4. The Appeals Committee shall prepare its finding(s) and decision within 30 days after the appeal hearing.

5. The Executive Director shall, in writing, advise the appellant and the state agency of the decision within 15 days and shall advise the Commission of the decision by memorandum at the next Commission meeting.

6. If an appeal is heard by the Appeals Committee, either party may request a reconsideration by the Commission. Said request must be submitted to the Executive Director no less than 30 days after the determination by the Appeals Committee and shall be acted upon by the Commission no later than 60 days after said request is received. Reconsideration by the Commission shall be based upon the record of the appeal hearing and additional information or testimony that is specifically requested by the Commission. Notice of the determination of the Commission upon reconsideration shall be sent to all parties involved within 15 days of the action by the Commission.

(b) If an appeal is not delegated, or if the Commission elects to conduct the hearing, or if the appellant appeals a decision of the Appeals Committee to the Commission, the following procedure will be used:

1. Time and place of the hearing as determined by the Commission shall be noticed to the appellant and the state agency within 15 days; date of said hearing shall be within 60 days of date of notice.

2. The Executive Director shall publish the time, date and location of the hearing to interested parties and invite expert or other witnesses as necessary for the hearing.

3. The hearing shall be conducted at a regularly scheduled or specially designated Commission meeting, under its own rules, accepting evidence as it requires, and chaired by its regular Chairperson. Appellant and other interested parties may present relevant testimony, argument, or documentary material as acceptable to the Commission consistent with the requirements of Section 1-602 (b).

4. The Commission shall make a decision on the appeal at an open meeting thereof, provided that the matter may be continued or taken under advisement for decision at a later meeting of the Commission, or re-referred to the Appeals Committee for further consideration and report to the Commission. No Commissioner may cast a vote on the determination of a hearing unless he was present at the hearing and heard the testimony and evidence presented.

5. Notwithstanding the foregoing, the appeal may be withdrawn at any time by the appellant upon written notice to the Executive Director. Upon withdrawal, no further proceedings as specified above shall take place. The withdrawal of the appeal shall be accepted with or without prejudice, as determined by the Commission.

6. The Executive Director shall, in writing, advise the appellant and the state agency of the decision of the Commission within 15 days from the date of the official Commission decision in the matter.

(c) The Commission may elect to refer the appealing parties to a hearing officer appointed by the Office of Administrative Hearings as described in Health and Safety Code Section 18946.

(d) Action by the Commission on the appeal of a building standards issue within the authority of the Commission shall exhaust the administrative relief of the appellant.

Authority: Health & Safety Code Section 18945.

Reference: Health & Safety Code Sections 18931 and 18946.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-604, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

Article 1-7. Conflict of Interest Code

1-701. (a) The Political Reform Act, specifically Government Code Section 87306, requires state and local governmental agencies to promulgate and adopt Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, Title 2, California Code of Regulations, Section 18730, containing the terms of standard Conflict of Interest Code, that can be incorporated by reference, and that may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of Title 2, California Code of Regulations, Section 18730, and amendments thereto, duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Building Standards Commission.

Designated employees shall file statements of economic interest with the Commission. Upon receipt of the statements of the Commission members, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements of other designated

employees are retained by the agency; no copies are forwarded to the Fair Political Practices Commission.

- (b) 1. Designated Employee
Chair of the Commission
Commissioners
Executive Director
Deputy Executive Director
Consultants

2. Disclosure Category

All designated employees shall report all investments, business positions sources of income and all interests in real property.

Authority: Health & Safety Code Section 18931(f) and Government Code Section 87306.

Reference: Health & Safety Code Section 18931(f) and Government Code Section 87306.

HISTORY:

1. (BSC 2/99) Article 1-7, Conflict of Interest Code. Amend Section 1-701. Approved by the Fair Political Practices Committee on October 29, 1999. Filed with the Secretary of State on December 31, 1999; effective January 30, 2000.

Article 1-8. Public Petition Regulations

1-801. Public Petition. Any member of the public may petition either the Commission, the proposing agency or the adopting agency for the proposal, adoption, amendment or repeal of any state building standard or administrative standard appearing in Title 24 of the California Code of Regulations.

Authority: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-801, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-802. Criteria for Public Petition. A public petition for the proposal, adoption, amendment or repeal of a state building standard must meet the following criteria:

(a) The subject issue must have statewide significance and must have implications for a whole category of projects or a broad range of project types.

(b) The rationale for the petition must take the form of at least one of the following criteria:

1. The subject regulation conflicts with pertinent statute(s). To substantiate this criterion, the petitioner must cite the subject regulation and the conflicting statute(s), and provide a clear written description of why the two are inconsistent.

2. Compliance with the subject regulation is routinely impossible or onerous. To substantiate this criterion, the petitioner must cite the subject regulation, present written or photographic evidence of the difficulty in complying with it, and clearly show that the problem is common or potentially common to many different projects or project types in many different circumstances. This criterion shall not be used to justify a petition for the repeal or amendment of a regulation that poses difficulty to a single project.

3. The regulation is inefficient or ineffective. To substantiate this criterion, the petitioner must cite the subject regulation, provide clear and concise written or photographic evidence of its ineffectiveness or inefficiency, describe a proposed alternative, and provide clear and convincing written or photographic evidence that it is more efficient or effective.

4. The subject regulation is obsolete. To substantiate this criterion, the petitioner must show at least one of the following facts:

- A. That a material or product specified in the regulation is not available, or
B. That there is no statute authorizing the subject regulation, or
C. That significant developments in procedures, materials or other issues affecting the regulation have created a need for amendment or deletion of the regulation; that current state statutes permit amendment or deletion of the regulations; and that the regulation has the effect of prohibiting the use of a material or procedure that is demonstrated to the satisfaction of the submitting agency to accomplish the purpose of the regulation.

5. There is a need for a new regulation. To substantiate this criterion, the petitioner must provide a clear written description of the proposed regulation, explain why it is necessary, and cite the statute(s) that require or authorize the new regulation.

Authority: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-802, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-803. Emergency Clause. A petitioner may assert that his or her petition requires immediate action because there is imminent danger to the public health, safety or welfare. To substantiate the existence of a potential danger, the petitioner must include in the petition a written description of the specific facts showing the need for immediate action. If the emergency clause is approved and if the petition is accepted pursuant to Section 1-805 [Agency Duties], the proposing agency or adopting agency shall develop and/or adopt proposed changes.

Authority: Health & Safety Code Sections 18931 and 18937 and Assembly Bill 4082., Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Sections 18931 and 18937 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-803, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-804. Petition Submittal. Public petitions shall be submitted by the petitioner to either the Commission, the proposing agency or the adopting agency.

(a) When submitted to the Commission, within fourteen (14) business days after receiving a petition, the Commission shall determine whether the petition is properly compiled and complete. For the purposes of this section, “properly compiled and complete” means the petition meets the requirements set forth in Sections 1-802 [Criteria for Public Petition] and 1-803 [Emergency Clause].

(b) When submitted to the Commission, within fourteen (14) business days after receiving a petition, the Commission shall return incomplete petitions to petitioners without action but with an itemization of the missing or incomplete items.

(c) When submitted to the Commission, within fourteen (14) business days after receiving a petition, the Commission shall forward complete petitions to the appropriate proposing agency or adopting agency. The proposing agency or adopting agency shall have five (5) business days following receipt of petitions from the Commission to dispute the determination of completeness and/or the Commission’s determination of jurisdiction. If the agency determines that the petition is incomplete, it shall, by the close of business on the fifth business day following receipt of the petition, return the petition to the Commission, with an itemization of the missing or incomplete items, and the Commission shall return the petition to the petitioner within twenty-five (25) business days of having originally received the petition without action in accordance with the procedures provided in subparagraph (b) above.

(d) The Commission shall provide written notification to the petitioner that the petition is complete and undergoing proposing agency or adopting agency review, if the five (5) day period described in subparagraph (c) above expires without proposing agency or adopting agency action. This notification must be sent to the petitioner no more than twenty (20) business days after having first received the petition.

(e) The Commission shall maintain records relating to the submittal and disposition of petitions. The Commission shall have no authority to rule on the contents of petitions except to determine whether sufficient information has been provided by the petitioner, unless specifically requested to do so by the proposing agency or adopting agency.

Authority: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082., Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-804, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-805. Agency Duties. When the agency whose adoption responsibilities relating to building standards are transferred to the Commission receives a petition, that agency shall submit the petition to the Commission for compliance with Section 1-804 [Submittal]. After receiving a completed petition from the Commission, the proposing agency or adopting agency shall be responsible for the following duties:

(a) The proposing agency or adopting agency may reject a petition, if the proposing agency or adopting agency disagrees with

the Commission’s determination that a petition is complete, or if the proposing agency or adopting agency believes the petition is in the jurisdiction of a different agency, the proposing agency or adopting agency shall notify the Commission no more than five (5) business days after receiving a petition.

(b) If the proposing agency or adopting agency agrees that it has jurisdiction and that the petition is complete, it shall take one of the following actions, communicating with the petitioner, within the noted time lines:

1. The agency may reject, accept or approve a petition in part and may grant such other relief or take such other action as it may determine to be warranted by the petition and shall notify the petitioner in writing of such action.

2. If the agency denies the petition for cause pursuant to Section 1-806 [Criteria for Denying a Public Petition for Cause], it shall do so in writing within thirty (30) business days after the date of the written notification provided by the Commission pursuant to Subsection 1-804 (d).

3. If the agency accepts the petition, it shall notify the petitioner in writing within thirty (30) business days after the date of the written notification provided by the Commission pursuant to Subsection 1-804 (d). For the purposes of this section, accepting the petition indicates that the agency believes the issue(s) merit proceeding to code development. Code development shall include the public participation criteria in Article 1-5, Part 1, Title 24, California Code of Regulations.

4. If the approved petition contains an emergency clause, the agency shall also rule on the reasons posed in the clause, and if it concurs that an emergency exists, shall schedule code development and adoption procedures on an emergency basis.

Authority: Health & Safety Code Sections 18931, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6 and Assembly Bill 4082., Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Section 18931 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-805, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-806. Criteria for Denying a Public Petition for Cause. The proposing agency or adopting agency may deny a public petition pursuant to Section 1-805 [Agency Duties] for cause using at least one of the following criteria:

(a) The subject regulation is already scheduled for review at the next regular triennial or other scheduled adoption. To substantiate this criterion, the agency shall include in its written denial a schedule for the planned review. Alternatively, the agency may approve a petition but defer its implementation until the next scheduled adoption.

(b) The issues cited by the petitioner are factually incorrect. To substantiate this criterion, the agency shall identify in its written denial the incorrect facts.

(c) The issues cited by the petitioner are not within the State’s jurisdiction. To substantiate this criterion, the agency shall show in its written denial why the issues are outside its jurisdiction.

(d) The issues cited by the petitioner have been raised and answered through another petition or during the previous rulemaking. To substantiate this criterion, the agency shall include with its written denial a copy of the previous petition and its response or the pertinent rulemaking file information.

NOTE: If new facts or substantiating data, pertinent to a petition, are provided, this criterion shall not be grounds for denying a petition.

(e) Resolving the issues raised by the petitioner would compromise the agency’s ability to carry out its legal mandate. To sub-

stantiate this criterion, the agency shall include with its denial the specific ways in which its legal mandate would be compromised.

Authority: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-806, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-807. Appeal. Any person may request reconsideration of any part or all of a decision of any agency on any petition submitted. Any such request shall be submitted in accordance with these public petition procedures and shall include the reason or reasons why an agency should reconsider its previous decision. Such request for reconsideration must be submitted no later than sixty (60) days after the date of the decision involved. The agency's reconsideration of any matter relating to a petition shall be subject to the provisions of Section 1-806 [Criteria for Denying a Public Petition for Cause].

Authority: Health & Safety Code Sections 18931, 18945, and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Sections 18931, 18945, and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-807, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-808. Appeal to the Commission.

(a) A petitioner may appeal, to the Commission, the final decision of a state agency when reconsideration is denied pursuant to Section 1-807 [Appeal]. When the petitioner appeals the decision of a state agency, it shall only be based on the criteria that the petition does not meet the requirements of Section 1-806 [Criteria for Denying a Public Petition for Cause].

(b) Appeals to the Commission shall meet the same requirements of Section 1-807 [Appeal].

(c) Should the Commission determine that the appeal does not meet the requirements of Section 1-806 [Criteria for Denying a Public Petition for Cause], the Commission shall direct the agency to accept and approve the petition.

Authority: Health & Safety Code Sections 18931, 18945, and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

Reference: Health & Safety Code Sections 18931, 18945, and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1990.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-808, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

1-809. Substitution of or Supplementation by Agency Procedures

(a) These regulations shall not apply when an agency notifies the Commission that a petition process is mandated by specific statutes in addition to Government Code Section 11347.1, and/or that it has adopted its own regulations or procedures complying with Government Code Section 11347.1, and that it has notified the public of the existence of these statutes, regulations or procedures. Notification to the Commission shall consist of a written copy of such statutes, regulations or procedures and a description of the methods used to make the public aware of their existence. Upon such notification, the Commission shall exclude the agency from compliance with these regulations. If the Commission receives a petition pertaining to an excluded agency's jurisdiction, the Commission shall forward the petition without undertaking any of the duties contained in Sections 1-803 [Emergency Clause] and 1-804 [Submittal] directly to the agency and shall notify the petitioner of that fact.

When an agency notifies the Commission of existing public petition regulations or statutes, those public petition regulations or processes must be at least as effective as the public petition regulations in Article 1-8.

(b) These regulations are not intended to be the sole means by which the proposing agency or adopting agencies and the interested public can raise, discuss and resolve issues pertaining to building standards. Agency procedures such as public participation meetings, advisory committees, written and verbal correspondence between members of the public and agency personnel, and other methods are considered alternatives that may be chosen by a member of the public instead of or in addition to the public petition procedures described in these regulations.

Authority: Health & Safety Code Sections 18931 and 18949.6, Assembly Bill 4082, Chapter 1289, Statutes of 1990 and Government Code Section 11347.1.

Reference: Health & Safety Code Sections 18931 and 18949.6, Assembly Bill 4082, Chapter 1289, Statutes of 1990 and Government Code Section 11347.1.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-809, Part I, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter which will be February 26, 1995. Publication date April 24, 1995.

Article 1-9. Code Adoption Process

1-900. Definitions. The following definitions govern the interpretation of this article:

(a) "Challenge" means a written public comment received during a written comment period and directed at a proposed change or a code advisory committee recommendation or the procedures followed by the Commission in proposing or adopting the action.

(b) "Code advisory committee" means an advisory panel or body appointed to advise the Commission with respect to building standards.

(c) "Code change" means a proposed change to a building standard as defined by Health and Safety Code Section 18909.

(d) "Code change submittal" means a proposed code change and its justification submitted to the Commission by a proposing agency.

(e) "Commission" means the California Building Standards Commission.

(f) "Executive Director" means the Executive Director of the California Building Standards Commission.

(g) “Justification” means an initial statement of reason and the information needed to complete a notice of proposed action, including a determination as to the effect of the code change on housing costs.

(h) “Proposing agency” means a state agency having authority and responsibility to propose a building standard for adoption by the Commission.

(i) “Special code advisory committee” means an ad hoc committee established by the Commission, when necessary, to advise the Commission on a subject in the code needing extensive revision or on a complex subject which needs to be regulated or to perform a review of a proposed code change that warrants special technical review.

(j) “Technical review” means a review of a proposed code change and its justification conducted pursuant to Health and Safety Code Section 18930 (c), (d), (e), (f) to ensure that a code change is justified in terms of criteria of Health and Safety Code Section 18930 (a), the nine-point criteria.

Authority: Health & Safety Code Sections 18929.1, 18949.6 and 18931 (f).
Reference: Health & Safety Code Sections 18927, 18929-18932, 18934, 18935, 18936, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6.

1-901. Procedure for Code Adoption Process.

(a) **Purpose.** This article establishes basic minimum procedural requirements for an annual code adoption cycle for proposing agencies to ensure adequate public participation in the development of building standards, to ensure adequate technical review and adequate time for technical review by code advisory committees and to ensure adequate notice to the public of compiled code change submittals prior to adoption by the Commission.

(b) **Code Change Submittal—Proposing Agency.** The Commission shall notify a proposing agency of the deadline for acceptance of code change submittals a minimum of 180 days prior to the deadline. A proposing agency shall submit a code change submittal for the Commission’s adoption on or before the deadline for acceptance specified in the notice.

(c) **Prenote Technical Review.** Prior to conducting the rule-making proceeding required by the Administrative Procedure Act, the Commission shall assign a code change submittal received on or before the deadline to one or more code advisory committees specifically knowledgeable in the building standard being proposed for change and schedule the submittal for a noticed public hearing to ensure adequate opportunity for public participation and technical review.

1. **Code Advisory Committee Reviews.** A code advisory committee shall conduct a public hearing to perform a technical review of all code change submittals assigned to it by the Commission. A code advisory committee meeting shall be scheduled by the Commission and shall be open to the public.

2. **Code Advisory Committee Meetings.** The location and date of a code advisory committee meeting shall be noticed by the Commission in accordance with Government Code Sections 11120 through 11132, the Bagley-Keene Open Meeting Act.

3. **Code Advisory Committee Recommendations.** A code advisory committee shall make a recommendation on each code change submittal. A recommendation shall include a substantiating reason based on Health and Safety Code Section 18930. The recommendation shall be one of the following:

A. **Approve.** Approval of a proposed code change as submitted. The proposed code change is justified in terms of criteria of Health and Safety Code Section 18930.

B. **Disapprove.** A proposed code change does not meet one or more specified criteria of Health and Safety Code Section 18930.

C. **Further Study Required.** A proposed code change has merit but does not meet one or more specified criteria of Health and Safety Code Section 18930. The proposed code change requires further study by the proposing agency. The proposing agency should submit the proposed code change in the next code adoption cycle after further study.

D. **Approve as Amended.** Approval as modified by the proposing agency director or written authorized representative. Modifications are justified in terms of Health and Safety Code Section 18930. An amended justification consistent with the approval as amended recommendation shall be submitted to the Commission by the proposing agency within 10 working days of the date of the committee’s recommendation. The failure to submit an amended justification consistent with the approval recommendation within that time is cause for disapproval.

E. **Withdrawal.** A proposed code change is out of the code adoption cycle. Only the proposing agency may withdraw a proposed code change.

4. **Code Advisory Committee Reports.** After the deadline for acceptance of code change submittals and following the code advisory committee meetings, the Commission shall prepare an itemized monograph, including the code change submittals, the code advisory committee recommendations and the reasons for the recommendations. This monograph of code change submittals shall be made available to the public for comment as the Commission’s proposed rulemaking action in accordance with Article 1-3 of this part.

(d) **Public Written Comment Period.** Anyone wishing to contest a recommendation of the code advisory committee(s) and/or comment on a proposed code change in the monograph may submit a challenge to the Commission during the written comment period established by the notice of proposed action. Upon written request received, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8 shall be held by the Commission on the proposed code changes, its justification and code advisory recommendations at which time statements, arguments, or comments, either oral or in writing, or both, shall be permitted.

1. A challenge shall refer to a specific recommendation or proposed code change and clearly indicate what is being contested. The challenge shall specify the action desired: approve, disapprove, return for further study or approve as amended. A challenge shall specify a concise substantiating reason for the challenge.

2. Following the close of the comment period and/or public hearing, the Commission shall make available to the public upon request a monograph of challenges received at the Commission office by the close of the written comment period and/or comments received at the public hearing.

3. The Commission shall consider the challenges contained in the monograph.

4. No new issues will be raised before the Commission that were not printed in the monograph of challenges.

5. Items not challenged but affected as a result of an action on another item may also be considered at the Commission meeting to eliminate conflict, duplication or overlap.

6. **Commission Action.** The Commission shall take one of the following actions on each item. All amendments to code change

submittals as submitted require the approval of the proposing agency. Proposing agencies may withdraw their code change submittals at any time.

A. Challenges.

- (1) The Commission approves a challenge. The challenge includes a substantiating reason.
- (2) The Commission disapproves a challenge. The Commission explains a reason for disapproval.

B. Code Advisory Committee Recommendations.

- (1) The Commission approves a recommendation. The recommendation includes a substantiating reason.
- (2) The Commission disapproves a recommendation. The Commission explains a reason for disapproval.

C. Code Change Submittal.

- (1) **Approve.** The Commission approves a proposed code change as submitted. The change is justified in terms of Health and Safety Code Section 18930.
- (2) **Disapprove.** The Commission disapproves a proposed code change as not justified in terms of Health and Safety Code Section 18930.
- (3) **Further Study Required.** The Commission finds that a proposed code change has merit but does not meet specified criteria of Health and Safety Code Section 18930. The change requires further study and justification by the proposing agency. The proposed code change may be submitted in the next code adoption cycle with further study and justification.
- (4) **Approve as Amended.** The Commission approves a proposed code change as modified by the proposing agency director or written authorized representative. No modification shall be made that materially alters a requirement, right, responsibility, condition or prescription in the text made available for comment in accordance with Article 1-3 of this part. The proposing agency shall justify the modification pursuant to Health and Safety Code Section 18930 in an amended justification consistent with the approval action submitted to the Commission within 10 working days. Failure to submit the amended justification within that time is cause for disapproval.
- (5) **Withdrawal.** The proposed code change is out of the code adoption cycle. Only the proposing agency may withdraw a proposed code change.

Authority: Health & Safety Code Sections 18929.1, 18949.6 and 18931(f).

Reference: Health & Safety Code Sections 18927, 18929 through 18932, 18934, 18935, 18936, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6.

1-902. Code Advisory Committee(s).

(a) **Standing Code Advisory Committees.** The Commission shall establish the following standing code advisory committees.

1. Accessibility
2. Plumbing, Electrical, Mechanical, and Energy
3. Building, Fire, and Other Regulations
4. Structural Design/Lateral Forces
5. Health Facilities

(b) **Special Code Advisory Committee.** The Commission may establish one or more special code advisory committees

when it determines that a subject in the code needs to be extensively revised or that a complex subject which needs to be regulated is not covered or that the content of a proposed code change warrants special technical review.

(c) **Quorum.** A majority of the members of the "code advisory committee(s)" shall constitute a quorum for the transaction of business. A majority of the members present shall constitute a quorum for determining the outcome of a vote.

(d) **Members.** The code advisory committee(s) shall be limited to a maximum of nine members, appointed by the Commission for one triennial code adoption cycle (three years). The appointments shall be made from organizations specifically knowledgeable in the building standards being proposed. Members shall be selected based on the following representations:

1. **Accessibility.** The Commission shall solicit nominations from:

A. Ex-Officio Member(s)

- (1) State Agency Representative(s)

B. Voting Member(s)

- (1) Disability Access Advocate Knowledgeable in Visually Impaired
- (2) Disability Access Advocate Knowledgeable in Hearing Impaired
- (3) Disability Access Advocate Knowledgeable in Mobility Impaired
- (4) Disability Access Advocate Knowledgeable in Environmental Health Network or Other Cognitively Impaired
- (5) Local Government Building Official
- (6) Construction Industry
- (7) Architect
- (8) Fire Official
- (9) Public Member

2. **Plumbing, Electrical, Mechanical, and Energy.** The Commission shall solicit nominations from:

A. Ex-Officio Member(s)

- (1) State Agency Representative(s)

B. Voting Member(s)

- (1) Local Government Building Official
- (2) Environmental/Energy Organization
- (3) Construction Industry
- (4) Architect
- (5) Fire Official
- (6) Public Member
- (7) Energy Consultant
- (8) Mechanical Engineer
- (9) Electrical Engineer

3. **Building, Fire and Other.** The Commission shall solicit nominations from:

A. Ex-Officio Member(s)

- (1) State Agency Representative(s)

B. Voting Member(s)

- (1) Local Government Building Official
- (2) Registered Fire Protection Engineer

- (3) Construction Industry
- (4) Architect
- (5) Commercial Building Industry
- (6) Fire Official
- (7) Disability Access Advocate

4. **Structural Design/Lateral Forces.** The Commission shall solicit nominations from:

- A. Ex-Officio Member(s)
 - (1) State Agency Representative
- B. Voting Member(s)
 - (1) Two (2) Structural Engineers
 - (2) Architect
 - (3) General Contractor
 - (4) Local Government Building Official

5. **Health Facilities.** The Commission shall solicit nominations from:

- A. Ex-Officio Member(s)
 - (1) State Agency Representative(s)

B. Voting Member(s)

- (1) Acute Care Hospital Representative
- (2) Skilled Nursing Facility Representative
- (3) Architect
- (4) General Contractor
- (5) Mechanical Engineer
- (6) Electrical Engineer
- (7) Fire Protection Engineer
- (8) Local Government Building Official
- (9) Primary Care or Specialty Clinic Representative

Authority: Health & Safety Code Sections 18929.1, 18949.6 and 18931(f).
Reference: Health and Safety Code Sections 18927, 18929.1, 18931 (f), 18934, 18936 and 18949.6.

HISTORY:

- 1. (BSC 2/92) Regular order by the California Building Standards Commission to adopt Section 1-901, Part 1, Title 24, California Code of Regulations. Filed with the secretary of state February 10, 1994; effective March 12, 1994. Approved by the Office of Administrative Law on February 10, 1994.

APPENDIX

Article 1-7. State Building Standards Commission, Coordinating Council and Advisory Panels

1-701. Conflict of Interest Code Appendix.

Designated Employees
Secretary, State and Consumer Services Agency
Designated Chair
Commissioners
Executive Director

Disclosure Category

All designated employees shall report all investments and sources of income and all interest in real property.

Authority: Health & Safety Code Section 18931 and Government Code Section 81000 et seq.

Reference: Health & Safety Code Section 18931 and Government Code Section 81000 et seq.

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